



General Assembly

February Session, 2012

***Raised Bill No. 5281***

LCO No. 1169

\*01169\_\_\_\_\_HS\_\*

Referred to Committee on Human Services

Introduced by:  
(HS)

***AN ACT CONCERNING FRAUD DETECTION IN SOCIAL SERVICES PROGRAMS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-99 of the 2012 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective July 1, 2012*):

4 (a) Any vendor found guilty of vendor fraud under sections 53a-290  
5 to 53a-296, inclusive, shall be subject to forfeiture or suspension of any  
6 franchise or license held by such vendor from the state in accordance  
7 with this subsection, after hearing in the manner provided for in  
8 sections 4-176e to 4-180a, inclusive, and 4-181a. Any vendor convicted  
9 of vendor fraud under sections 53a-290 to 53a-296, inclusive, shall have  
10 such license or franchise revoked. Nothing in this subsection shall  
11 preclude any board or commission established under chapters 369 to  
12 376, inclusive, 378 to 381, inclusive, and 383 to 388, inclusive, and the  
13 Department of Public Health with respect to professions under its  
14 jurisdiction which have no board or commission from taking any  
15 action authorized in section 19a-17. Any vendor who is convicted in  
16 any state or federal court of a crime involving fraud in the Medicare

17 program or Medicaid program or aid to families with dependent  
18 children program or state-administered general assistance program or  
19 temporary family assistance program or state supplement to the  
20 federal Supplemental Security Income Program or any federal or state  
21 energy assistance program or general assistance program or state-  
22 funded child care program or the refugee program shall be terminated  
23 from such programs, effective upon conviction, except that the  
24 Commissioner of Social Services may delay termination for a period he  
25 deems sufficient to protect the health and well-being of beneficiaries  
26 receiving services from such vendor. A vendor who is ineligible for  
27 federal financial participation shall be ineligible for participation in  
28 such programs. No vendor shall be eligible for reimbursement for any  
29 goods provided or services performed by a person convicted of a crime  
30 involving fraud in such programs. The convicted person may request a  
31 hearing concerning such ineligibility for reimbursement pursuant to  
32 sections 4-176e to 4-180a, inclusive, and 4-181a provided such request  
33 is filed in writing with the Commissioner of Social Services within ten  
34 days of the date of written notice by the commissioner to the person of  
35 such ineligibility. The commissioner shall give notice of such  
36 ineligibility to such vendors by means of publication in the  
37 Connecticut Law Journal following the expiration of said ten-day  
38 hearing request period, if no timely request has been filed, or following  
39 the decision on the hearing. The Commissioner of Social Services may  
40 take such steps as necessary to inform the public of the conviction and  
41 ineligibility for reimbursement. No vendor or person so terminated or  
42 denied reimbursement shall be readmitted to or be eligible for  
43 reimbursement in such programs. Any sums paid as a result of vendor  
44 fraud under sections 53a-290 to 53a-296, inclusive, may be recovered in  
45 an action brought by the state against such person.

46 (b) For the purpose of determining compliance with subsection (a)  
47 of this section, all vendors shall notify the commissioner within thirty  
48 days after the date of employment or conviction, whichever is later, of  
49 the identity, interest and extent of services performed by any person  
50 convicted of a crime involving fraud in the Medicare program or

51 Medicaid program or aid to families with dependent children program  
52 or state-administered general assistance program or temporary family  
53 assistance program or state supplement to the federal Supplemental  
54 Security Income Program or any federal or state energy assistance  
55 program or general assistance program or state-funded child care  
56 program or the refugee program. Prior to the commissioner's  
57 acceptance of a provider agreement or at any time upon written  
58 request by the commissioner, the vendor shall furnish the  
59 commissioner with the identity of any person convicted of a crime  
60 involving fraud in such programs who has an ownership or control  
61 interest in the vendor or who is an agent or managing employee. The  
62 commissioner shall terminate, refuse to enter into or renew an  
63 agreement with a vendor, except a vendor providing room and board  
64 and services pursuant to section 17b-340, if such convicted person has  
65 such interest or is such agent or employee. In the case of a vendor  
66 providing room and board and services pursuant to said section 17b-  
67 340, the commissioner may terminate, refuse to enter into or renew an  
68 agreement after consideration of any adverse impact on beneficiaries  
69 of such termination or refusal.

70 (c) The Department of Social Services shall distribute to all vendors  
71 who are providers in the medical assistance program a copy of the  
72 rules, regulations, standards and laws governing the program. The  
73 Commissioner of Social Services shall adopt by regulation in the  
74 manner provided for in sections 4-166 to 4-176, inclusive,  
75 administrative sanctions against providers in the Medicare program or  
76 Medicaid program or aid to families with dependent children program  
77 or state-funded child care program or state-administered general  
78 assistance program or temporary family assistance program or state  
79 supplement to the federal Supplemental Security Income Program  
80 including suspension from the program, for any violations of the rules,  
81 regulations, standards or law. The commissioner may adopt  
82 regulations in accordance with the provisions of chapter 54 to provide  
83 for the withholding of payments currently due in order to offset  
84 money previously obtained as the result of error or fraud. The

85 department shall notify the proper professional society and licensing  
86 agency of any violations of this section.

87 (d) The Commissioner of Social Services, or any entity with which  
88 the commissioner contracts, shall conduct random quarterly audits of  
89 fifteen per cent of providers participating in social services programs  
90 [for the purpose of conducting an audit of a service provider that  
91 participates as provider of services in a program] operated or  
92 administered by the department pursuant to this chapter or chapter  
93 319t, 319v, 319y or 319ff, except a service provider for which rates are  
94 established pursuant to section 17b-340. [, shall conduct any] Any such  
95 audit shall be conducted in accordance with the provisions of this  
96 subsection. For purposes of this subsection "provider" means a person,  
97 public agency, private agency or proprietary agency that is licensed,  
98 certified or otherwise approved by the commissioner to supply  
99 services authorized by the programs set forth in said chapters.

100 (1) Not less than thirty days prior to the commencement of any such  
101 audit, the commissioner, or any entity with which the commissioner  
102 contracts to conduct an audit of a participating provider, shall provide  
103 written notification of the audit to such provider, unless the  
104 commissioner, or any entity with which the commissioner contracts to  
105 conduct an audit of a participating provider makes a good faith  
106 determination that (A) the health or safety of a recipient of services is  
107 at risk; or (B) the provider is engaging in vendor fraud. A copy of the  
108 regulations established pursuant to subdivision (11) of this subsection  
109 shall be appended to such notification.

110 (2) Any clerical error, including, but not limited to, recordkeeping,  
111 typographical, scrivener's or computer error, discovered in a record or  
112 document produced for any such audit shall not of itself constitute a  
113 wilful violation of program rules unless proof of intent to commit  
114 fraud or otherwise violate program rules is established.

115 (3) A finding of overpayment or underpayment to a provider in a  
116 program operated or administered by the department pursuant to this

117 chapter or chapter 319t, 319v, 319y or 319ff, except a provider for  
118 which rates are established pursuant to section 17b-340, shall not be  
119 based on extrapolated projections unless (A) there is a sustained or  
120 high level of payment error involving the provider, (B) documented  
121 educational intervention has failed to correct the level of payment  
122 error, or (C) the value of the claims in aggregate exceeds one hundred  
123 fifty thousand dollars on an annual basis.

124 (4) A provider, in complying with the requirements of any such  
125 audit, shall be allowed not less than thirty days to provide  
126 documentation in connection with any discrepancy discovered and  
127 brought to the attention of such provider in the course of any such  
128 audit.

129 (5) The commissioner, or any entity with which the commissioner  
130 contracts, for the purpose of conducting an audit of a provider of any  
131 of the programs operated or administered by the department pursuant  
132 to this chapter or chapter 319t, 319v, 319y or 319ff, except a service  
133 provider for which rates are established pursuant to section 17b-340,  
134 shall produce a preliminary written report concerning any audit  
135 conducted pursuant to this subsection, and such preliminary report  
136 shall be provided to the provider that was the subject of the audit not  
137 later than sixty days after the conclusion of such audit.

138 (6) The commissioner, or any entity with which the commissioner  
139 contracts, for the purpose of conducting an audit of a provider of any  
140 of the programs operated or administered by the department pursuant  
141 to this chapter or chapter 319t, 319v, 319y or 319ff, except a service  
142 provider for which rates are established pursuant to section 17b-340,  
143 shall, following the issuance of the preliminary report pursuant to  
144 subdivision (5) of this subsection, hold an exit conference with any  
145 provider that was the subject of any audit pursuant to this subsection  
146 for the purpose of discussing the preliminary report.

147 (7) The commissioner, or any entity with which the commissioner  
148 contracts, for the purpose of conducting an audit of a service provider,

149 shall produce a final written report concerning any audit conducted  
150 pursuant to this subsection. Such final written report shall be provided  
151 to the provider that was the subject of the audit not later than sixty  
152 days after the date of the exit conference conducted pursuant to  
153 subdivision (6) of this subsection, unless the commissioner, or any  
154 entity with which the commissioner contracts, for the purpose of  
155 conducting an audit of a service provider, agrees to a later date or  
156 there are other referrals or investigations pending concerning the  
157 provider.

158 (8) Any provider aggrieved by a decision contained in a final  
159 written report issued pursuant to subdivision (7) of this subsection  
160 may, not later than thirty days after the receipt of the final report,  
161 request, in writing, a review on all items of aggrievement. Such request  
162 shall contain a detailed written description of each specific item of  
163 aggrievement. The designee of the commissioner who presides over  
164 the review shall be impartial and shall not be an employee of the  
165 Department of Social Services Office of Quality Assurance or an  
166 employee of an entity with which the commissioner contracts for the  
167 purpose of conducting an audit of a service provider. Following  
168 review on all items of aggrievement, the designee of the commissioner  
169 who presides over the review shall issue a final decision.

170 (9) A provider may appeal a final decision issued pursuant to  
171 subdivision (8) of this subsection to the Superior Court in accordance  
172 with the provisions of chapter 54.

173 (10) The provisions of this subsection shall not apply to any audit  
174 conducted by the Medicaid Fraud Control Unit established within the  
175 Office of the Chief State's Attorney. The Commissioner of Social  
176 Services shall, in consultation with the Chief State's Attorney, identify  
177 existing staff and resources to dedicate to the enforcement and  
178 prevention of fraud and abuse in state-sponsored social services  
179 programs.

180 (11) The commissioner shall adopt regulations, in accordance with

181 the provisions of chapter 54, to carry out the provisions of this  
182 subsection and to ensure the fairness of the audit process, including,  
183 but not limited to, the sampling methodologies associated with the  
184 process.

185 Sec. 2. Section 17b-97 of the general statutes is amended by adding  
186 subsection (g) as follows (*Effective July 1, 2012*):

187 (NEW) (g) The Commissioner of Social Services, or an entity with  
188 whom he contracts, shall conduct random quarterly audits of fifteen  
189 per cent of beneficiaries under the terms of section 17b-99, as amended  
190 by this act.

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|---|---------------------|--------|
| This act shall take effect as follows and shall amend the following sections: |                     |        |
| Section 1   | <i>July 1, 2012</i> | 17b-99 |
| Sec. 2  | <i>July 1, 2012</i> | 17b-97 |

***Statement of Purpose:***

To expand efforts to fight fraud and abuse in taxpayer-supported social services programs.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*